

1 MICHAEL N. FEUER, CITY ATTORNEY (SBN 111529x)
2 THOMAS H. PETERS, CHIEF ASSISTANT CITY ATTORNEY
3 CORY M. BRENT, SUPERVISING ASSISTANT CITY ATTORNEY
4 CRAIG J. MILLER, DEPUTY CITY ATTORNEY (SBN 138302)
5 200 N. Main Street, 6th Floor, City Hall East
6 Los Angeles, CA 90012
7 Email: Craig.miller@lacity.org
8 Tel: (213) 978-7022 Fax: (213) 978-8785

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11 ATTORNEYS FOR DEFENDANTS CITY OF LOS ANGELES, STEVEN
12 BEUMER, JONATHAN GAN, JESSICAH GIST, KEN LEW, JOSE A.
13 PEDROZA and JOHN SEFFEL

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16 UNITED STATES DISTRICT COURT
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18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 WILLIAM MEARS, individually and
20 as Successor in Interest to Michael
21 Mears; and JOANNA WYSOCKI,
22 individually and as successor in interest
23 to Michael Mears,

24 Plaintiffs,

25 vs.

26 CITY OF LOS ANGELES, a
27 municipality; STEVEN BEUMER, an
28 individual; JOSE PEDROZA, an
individual; JONATHAN GAN, an
individual; OFFICER SEFFEL, an
individual; OFFICER LEW, an
individual; OFFICER GIST, an
individual, SGT. WILLIAMS, an
individual, and DOES 8-10, inclusive,

Defendants.

Case No.: CV 15-08441 JAK (AJWx)
(Consolidated with Case No. LA CV15-09587 JAK (AJWx))
Honorable Judge: John A. Kronstadt
Honorable Magistrate Judge: Andrew J. Wistrich

ANSWER OF DEFENDANTS
JESSICAH GIST and STEVEN
BEUMER TO PLAINTIFFS'
CONSOLIDATED FIRST AMENDED
COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL

COMES NOW DEFENDANTS JESSICAH GIST and STEVEN BEUMER

answering Plaintiffs' Consolidated First Amended Complaint in the above-entitled

action, for themselves and for no other party, hereby admit, deny, and allege as follows:

1. Answering paragraph 1 of the Complaint, defendants deny the allegations contained therein.

2. Answering paragraph 2 of the Complaint, defendants admit the allegations contained therein.

3. Answering paragraph 3 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

4. Answering paragraph 4 of the Complaint, defendants lack sufficient information and belief upon which to answer the allegations contained therein, and on that basis deny the allegations.

5. Answering paragraph 5 of the Complaint, defendants lack sufficient information and belief upon which to answer the allegations contained therein, and on that basis deny the allegations.

6. Answering paragraph 6 of the Complaint, defendants lack sufficient information and belief upon which to answer the allegations contained therein, and on that basis deny the allegations.

7. Answering paragraph 7 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

1 8. Answering paragraph 8 of the Complaint, no factual allegations are
2 made therein, and on that basis the paragraph goes unanswered.

3 9. Answering paragraph 9 of the Complaint, no factual allegations are
4 made therein, and on that basis the paragraph goes unanswered.

5 10. Answering paragraph 10 of the Complaint, no factual allegations are
6 made therein, and on that basis the paragraph goes unanswered.

7 11. Answering paragraph 11 of the Complaint, no factual allegations are
8 made therein, and on that basis the paragraph goes unanswered.

9 12. Answering paragraph 12 of the Complaint, no factual allegations are
10 made therein, and on that basis the paragraph goes unanswered.

11 13. Answering paragraph 13 of the Complaint, no factual allegations are
12 made therein, and on that basis the paragraph goes unanswered.

13 14. Answering paragraph 14 of the Complaint, no factual allegations are
14 made therein, and on that basis the paragraph goes unanswered.

15 15. Answering paragraph 15 of the Complaint, no factual allegations are
16 made therein, and on that basis the paragraph goes unanswered.

17 16. Answering paragraph 16 of the Complaint, no factual allegations are
18 made therein, and on that basis the paragraph goes unanswered.

19 17. Answering paragraph 17 of the Complaint, no factual allegations are
20 made therein, and on that basis the paragraph goes unanswered.

1 18. Answering paragraph 18 of the Complaint, no factual allegations are
2 made therein, and on that basis the paragraph goes unanswered.

3 19. Answering paragraph 19 of the Complaint, defendants lack sufficient
4 information and belief upon which to answer the allegations contained therein, and on
5 that basis deny the allegations.

6 20. Answering paragraph 20 of the Complaint, which incorporates by
7 reference the allegations of other paragraphs of the pleading, defendants to the same
8 extent incorporate by reference the answers provided herein to those paragraphs.

9 21. Answering paragraph 21 of the Complaint, defendants deny the
10 allegations contained therein.

11 22. Answering paragraph 22 of the Complaint, defendants deny the
12 allegations contained therein.

13 23. Answering paragraph 23 of the Complaint, defendants deny the
14 allegations contained therein.

15 24. Answering paragraph 24 of the Complaint, defendants deny the
16 allegations contained therein.

17 25. Answering paragraph 25 of the Complaint, no factual allegations are
18 made therein, and on that basis the paragraph goes unanswered.

19 26. Answering paragraph 26 of the Complaint, no factual allegations are
20 made therein, and on that basis the paragraph goes unanswered.

1 27. Answering paragraph 27 of the Complaint, which incorporates by
2 reference the allegations of other paragraphs of the pleading, defendants to the same
3 extent incorporate by reference the answers provided herein to those paragraphs.
4

5 28. Answering paragraph 28 of the Complaint, no factual allegations are
6 made therein, and on that basis the paragraph goes unanswered.

7 29. Answering paragraph 29 of the Complaint, no factual allegations are
8 made therein, and on that basis the paragraph goes unanswered.

9 30. Answering paragraph 30 of the Complaint, no factual allegations are
10 made therein, and on that basis the paragraph goes unanswered.

11 31. Answering paragraph 31 of the Complaint, defendants deny the
12 allegations contained therein.

13 32. Answering paragraph 32 of the Complaint, no factual allegations are made
14 therein, and on that basis the paragraph goes unanswered.

15 33. Answering paragraph 33 of the Complaint, no factual allegations are
16 made therein, and on that basis the paragraph goes unanswered.

17 34. Answering paragraph 34 of the Complaint, which incorporates by
18 reference the allegations of other paragraphs of the pleading, defendants to the same
19 extent incorporate by reference the answers provided herein to those paragraphs.

20 35. Answering paragraph 35 of the Complaint, no factual allegations are
21 made therein, and on that basis the paragraph goes unanswered.

36. Answering paragraph 36 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

37. Answering paragraph 37 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

38. Answering paragraph 38 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

39. Answering paragraph 39 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

40. Answering paragraph 40 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

41. Answering paragraph 41 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

42. Answering paragraph 42 of the Complaint, which incorporates by reference the allegations of other paragraphs of the pleading, defendants to the same extent incorporate by reference the answers provided herein to those paragraphs.

43. Answering paragraph 43 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

44. Answering paragraph 44 of the Complaint, defendants deny the allegations contained therein.

45. Answering paragraph 45 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

46. Answering paragraph 46 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

47. Answering paragraph 47 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

48. Answering paragraph 48 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

49. Answering paragraph 49 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

50. Answering paragraph 50 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

51. Answering paragraph 51 of the Complaint, which incorporates by reference the allegations of other paragraphs of the pleading, defendants to the same extent incorporate by reference the answers provided herein to those paragraphs.

52. Answering paragraph 52 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

53. Answering paragraph 53 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

1 54. Answering paragraph 54 of the Complaint, no factual allegations are
2 made therein, and on that basis the paragraph goes unanswered.

3 55. Answering paragraph 55 of the Complaint, no factual allegations are
4 made therein, and on that basis the paragraph goes unanswered.

5 56. Answering paragraph 56 of the Complaint, no factual allegations are
6 made therein, and on that basis the paragraph goes unanswered.

7 57. Answering paragraph 57 of the Complaint, no factual allegations are
8 made therein, and on that basis the paragraph goes unanswered.

9 58. Answering paragraph 58 of the Complaint, which incorporates by
10 reference the allegations of other paragraphs of the pleading, defendants to the same
11 extent incorporate by reference the answers provided herein to those paragraphs.

12 59. Answering paragraph 59 of the Complaint, defendants lack sufficient
13 information and belief upon which to answer the allegations contained therein, and on
14 that basis deny the allegations.

15 60. Answering paragraph 60 of the Complaint, no factual allegations are
16 made therein, and on that basis the paragraph goes unanswered.

17 61. Answering paragraph 61 of the Complaint, defendants deny the
18 allegations contained therein.

19 62. Answering paragraph 62 of the Complaint, defendants deny the
20 allegations contained therein.

63. Answering paragraph 63 of the Complaint, defendants deny the allegations contained therein.

64. Answering paragraph 64 of the Complaint, defendants deny the allegations contained therein.

65. Answering paragraph 65 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

66. Answering paragraph 66 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

67. Answering paragraph 67 and subparts (a-k) of the Complaint, defendants deny the allegations contained therein.

68. Answering paragraph 68 and subparts (a-d) of the Complaint, defendants deny the allegations contained therein.

69. Answering paragraph 69 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

70. Answering paragraph 70 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

71. Answering paragraph 71 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

72. Answering paragraph 72 of the Complaint, which incorporates by reference the allegations of other paragraphs of the pleading, defendants to the same extent incorporate by reference the answers provided herein to those paragraphs.

73. Answering paragraph 73 of the Complaint, defendants deny the allegations contained therein.

74. Answering paragraph 74 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

75. Answering paragraph 75 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

76. Answering paragraph 76 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

77. Answering paragraph 77 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

78. Answering paragraph 78 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

79. Answering paragraph 79 of the Complaint, no factual allegations are made therein, and on that basis the paragraph goes unanswered.

80. Answering paragraph 80 of the Complaint, which incorporates by reference the allegations of other paragraphs of the pleading, defendants to the same extent incorporate by reference the answers provided herein to those paragraphs.

1 81. Answering paragraph 81 of the Complaint, defendants deny the
2 allegations contained therein.

3 82. Answering paragraph 82 of the Complaint, no factual allegations are
4 made therein, and on that basis the paragraph goes unanswered.

5 83. Answering paragraph 83 of the Complaint, no factual allegations are
6 made therein, and on that basis the paragraph goes unanswered.

7 84. Answering paragraph 84 of the Complaint, defendants deny the
8 allegations contained therein.

9 85. Answering paragraph 85 of the Complaint, no factual allegations are
10 made therein, and on that basis the paragraph goes unanswered.

11 86. Answering paragraph 86 of the Complaint, which incorporates by
12 reference the allegations of other paragraphs of the pleading, defendants to the same
13 extent incorporate by reference the answers provided herein to those paragraphs.

14 87. Answering paragraph 87 of the Complaint, no factual allegations are
15 made therein, and on that basis the paragraph goes unanswered.

16 88. Answering paragraph 88 and subparts (a-h) of the Complaint,
17 defendants deny the allegations contained therein.

18 89. Answering paragraph 89 of the Complaint, no factual allegations are
19 made therein, and on that basis the paragraph goes unanswered.

1 90. Answering paragraph 90 of the Complaint, no factual allegations are
2 made therein, and on that basis the paragraph goes unanswered.

3 91. Answering paragraph 91 of the Complaint, no factual allegations are
4 made therein, and on that basis the paragraph goes unanswered.

5 92. Answering paragraph 92 of the Complaint, which incorporates by
6 reference the allegations of other paragraphs of the pleading, defendants to the same
7 extent incorporate by reference the answers provided herein to those paragraphs.

8 93. Answering paragraph 93 of the Complaint, no factual allegations are
9 made therein, and on that basis the paragraph goes unanswered.

10 94. Answering paragraph 94 of the Complaint, defendants deny the
11 allegations contained therein.

12 95. Answering paragraph 95 of the Complaint, no factual allegations are
13 made therein, and on that basis the paragraph goes unanswered.

14 96. Answering paragraph 96 of the Complaint, no factual allegations are made
15 therein, and on that basis the paragraph goes unanswered.

16 97. Answering paragraph 97 of the Complaint, no factual allegations are
17 made therein, and on that basis the paragraph goes unanswered.

18 98. Answering paragraph 98 of the Complaint, defendants deny the
19 allegations contained therein.

20 99. Answering paragraph 99 of the Complaint, no factual allegations are

1 made therein, and on that basis the paragraph goes unanswered.
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4 **AFFIRMATIVE DEFENSES**
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6 As a separate and distinct affirmative defenses, defendant alleges each of the
7 following:
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9 100. The damages alleged were directly and proximately caused and contributed
10 to by the negligence of decedent, and the extent of damages sustained, if any, should be
11 reduced in proportion to the amount of said negligence.
12

13 101. The damages alleged were directly and proximately caused and contributed
14 to by the negligence of other persons, and the extent of damages sustained, if any,
15 should be reduced in proportion to the amount of said negligence.
16

17 102. The force used against decedent, if any, was caused and necessitated by the
18 actions of decedent, and was reasonable and necessary for self-defense
19

20 103. The force used against decedent, if any, was caused and necessitated by the
21 actions of decedent, and was reasonable and necessary for the defense of others.
22

23 104. The claims are barred by the statute of limitations set forth in California
24 Code of Civil Procedure section 340(3).
25

26 105. The action should be abated in that all of the heirs of decedent have not
27 been joined as parties.
28

106. The action is barred for lack of standing to sue.

1 107. As to the federal claims and theories of recovery, the answering defendant is
2 protected from liability under the doctrine of qualified immunity, because defendant's
3 conduct did not violate clearly established statutory or constitutional rights of which a
4 reasonable person would have known.

5 108. Defendant City of Los Angeles and all defendants sued in their official
6 capacities are immune from the imposition of punitive damages.

7 109. Defendant is immune from liability pursuant to the provisions of each of the
8 following California statutes, each of which is set forth as a separate and distinct
9 affirmative defense:

10 Government Code §§ 815.2, 815.6, 818, 820.8, 834, 834(a), 835, 835(a) and 845.6.
11 Penal Code 836 and 836.5.

12 110. The state claims are barred for plaintiff's failure to comply with the
13 provisions of the California Tort Claims Act, Government Code § 910 et seq.

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19 WHEREFORE, Defendants pray for judgment as follows:

- 20 1. That Plaintiffs take nothing by this action;
21 2. That the action be dismissed;
22 3. That Defendants be awarded costs of suit;

1 4. That Defendants be awarded other and further relief as the Court
2 may deem just and proper, including an award of attorney's fees pursuant to 42
3 U.S.C. § 1988.
4

5

6 DATE: June 23, 2016

7 **MICHAEL N. FEUER, CITY ATTORNEY**
8 **THOMAS H. PETERS, CHIEF ASST. CITY ATTORNEY**
9 **CORY M. BRENT, SUPER. ASSIST CITY ATTORNEY**

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11 BY: /S/ - Craig J. Miller
12 **CRAIG J. MILLER, DEPUTY CITY ATTORNEY**
13 **ATTORNEYS FOR DEFENDANTS CITY OF LOS**
14 **ANGELES, STEVEN BEUMER, JONATHAN GAN,**
15 **JESSICAH GIST, KEN LEW, JOSE A. PEDROZA and**
16 **JOHN SEFFEL**

1 **DEMAND FOR JURY TRIAL**

2 Defendants hereby demand and request a trial by jury in this matter.

10 DATE: June 23, 2016

11 **MICHAEL N. FEUER, CITY ATTORNEY**
12 **THOMAS H. PETERS, CHIEF ASST. CITY ATTORNEY**
13 **CORY M. BRENT, SUPER. ASSIST CITY ATTORNEY**

14 BY: /S/ - Craig J. Miller
15 **CRAIG J. MILLER, DEPUTY CITY ATTORNEY**
16 **ATTORNEYS FOR DEFENDANTS CITY OF LOS**
17 **ANGELES, STEVEN BEUMER, JONATHAN GAN,**
18 **JESSICAH GIST, KEN LEW, JOSE A. PEDROZA and**
19 **JOHN SEFFEL**